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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/045,625

Filing Date: November 07, 2001

Appellant(s): SHIN ET AL.

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Stephen C. Bishop  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 1/18/2008 appealing from the Office action mailed 3/6/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,172,990	Deb	9-2001
5,703,875	Burnett	12-1997

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Burnett (USP5703875).

Regarding claim 9, Burnet discloses a method for identifying packet types of packets of symbols comprising receiving a synchronization symbol indicating a packet type (Col. 2, lines 40-49), each packet type having a different synchronization symbol (Col. 2, lines 40-49); receiving a packet of symbols (Col. 2, lines 40-49); and indicating that the received packet of symbols has the packet type of the received synchronization symbol (Col. 2, lines 40-49, Fig 2, Ref 12 and 13, the state control word is used to stored the data or control packet into correct buffer).

Regarding claim 10, Burnett discloses the symbols of the packet include in-band symbols (Fig 2, ref 12) and the synchronization symbols are out-of-band symbols (Col. 2, lines 40-49, control words for control or data type message).

Regarding claim 11, Burnet discloses the in-band symbols are transition optimized (Fig 2, ref 12) and the out-of-band synchronization symbols are not transition optimized (Col. 2, lines 40-49).

Regarding claim 12, Burnet discloses the synchronization symbol is transmitted before transmitting the symbols of the packet (Col. 2, lines 40-49).

Regarding claim 13, Burnet discloses packet types include a data packet (Fig 2, Ref 13).

Regarding claim 14, Burnet discloses packet types include a control packet (Fig 2, Ref 12).

Regarding claim 15, Burnet discloses the symbols are received from a switch (Fig 1).

Claims 1-8 and 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett (USP 5703875) in view of Deb (USP 6172990).

Regarding claims 1 and 16, Burnet discloses a method for transmitting packet types of packets comprising the steps of receiving a packet having symbols, transmitting a synchronization symbol that corresponds to the identified packet type (Col. 2, lines 40-49), wherein the transmitted synchronization symbol provides synchronization information and wherein each packet type has a different synchronization symbol; and transmitting the symbols of the received packet (Col. 2, lines 40-49, each type of message is associated with a different state control word and the state control word is transmitted before transmitting its associated message). However, Burnett does not fully disclose identifying a packet type of the packet based on the received packet. In the same field of endeavor, Deb discloses a method for receiving a packet and identifying the type of received packet and transmitting appended index that associated with the packet before transmitting packet (Col. 16, lines 24-58, col. 17, lines 22-37 and Fig 8, col. 21, line 30 to col. 22, line 19).

Since identifying the type of a packet was well known and widely used in the art, it would have been obvious to one of ordinary skill in the art to apply a method for identifying a type of packet as disclosed by Deb into Burnett's system and method. The motivation would have been to provide necessary processes for different packet types and to reduce delay time when transmitting a packet from source to destination.

Regarding claims 2 and 17, Burnett discloses the symbols of the packet include in-band symbols (Fig 2, ref 12) and the synchronization symbols are out-of-band symbols (Col. 2, lines 40-49, control words for control or data type message).

Regarding claims 3 and 18, Burnet discloses the in-band symbols are transition optimized (Fig 2, ref 12) and the out-of-band synchronization symbols are not transition optimized (Col. 2, lines 40-49).

Regarding claims 4 and 19, Burnet discloses the synchronization symbol is transmitted before transmitting the symbols of the packet (Col. 2, lines 40-49).

Regarding claims 5 and 20, Deb discloses the packet has a header with a field that indicates packet type (Fig 1b, Ref 36) and the identifying of the packet type includes checking the field of the header that indicates packet type (Col. 16, lines 24-58, col. 17, lines 22-37 and Fig 8, col. 21, line 30 to col. 22, line 19).

Regarding claims 6 and 21, Burnet discloses the packet types include a data packet (Fig 2, Ref 13).

Regarding claims 7 and 22, Burnet discloses the packet types include a control packet (Fig 2, Ref 12).

Regarding claims 8 and 23, Burnett discloses the symbols are transmitted to a switch network (Fig 1).

Regarding claim 24, Deb discloses the communications device is part of a storage area network (Fig 10, Ref 1010 is hard drive).

#### **(10) Response to Argument**

In the appeal brief, the appellant states that (1) Burnett does not disclose "receiving a synchronization symbol indicating a packet type, each packet type having a different

synchronization symbol”; (2) the combination of Burnett and Deb does not teach “transmitting a synchronization symbol that corresponds to the identified packet type, wherein the transmitted synchronization symbol provides synchronization information and wherein each packet type has a different synchronization symbol; (3) the combination of Burnett and Deb does not teach a transmission component that transmits a synchronization symbol that corresponds to the identified packet type, the transmitted synchronization symbol providing synchronization information and each packet type having a different synchronization symbol, and that transmits the symbols of the packet and (4) there is no suggestion or motivation to combine reference teachings.

With respect to (1) Burnett does not disclose "receiving a synchronization symbol indicating a packet type, each packet type having a different synchronization symbol". The examiner disagrees with the appellant because Burnett discloses a method and system for receiving a state control word “synchronization symbol” indicating a message type “packet type”, each message type having a different state control word “different synchronization symbol”. The state control word read on the synchronization symbol because synchronization does not indicate what type of synchronization which the signal will perform for example time synchronization, ordered synchronization, data synchronization, etc....”. Therefore, the synchronization symbol, in the claim, just mean a packet type which is used to identify what type of packet the receiving switch will be received after it received the (packet type) state control word in order to allow it to store the receiving message in its associated queue “control queue or data queue”. The state control word reads on synchronization symbol because it is used to identify the type of message following the state control word. The state control word and

message must be synchronized with each other in order to allow the receiver to use the state control word to store the message in a control queue or data queue. Burnett clearly disclose each message such as data message and control message has its own state control word "packet type" which indicates the message type (See col. 2, lines 19-60 and col. 3, lines 18-35). Therefore, the state control word is used to data storage synchronization between the storage of receiver and transmitter.

With respect to (2) the combination of Burnett and Deb does not teach "transmitting a synchronization symbol that corresponds to the identified packet type, wherein the transmitted synchronization symbol provides synchronization information and wherein each packet type has a different synchronization symbol. The examiner disagrees with the appellant because Burnett discloses a switch for transmitting a state control word "synchronization symbol" that corresponds to the identified message type "packet type", the transmitted synchronization symbol provides synchronization information "state control word is used to indicate what type of message the receiver will be received. The receiver used this information to store the message in a control or data queue, for example, if the transmitter retrieves and transmits a control message from a control queue after transmitting a state control word, the receiver stores the control message into a receiver control queue after receiving the state control word and message"; wherein each data or control message "packet type" has a different synchronization symbol "state control word for data or control message (See col. 2, lines 19-60 and col. 3, lines 18-35). Therefore, the state control word is used to data storage synchronization between the storage of receiver and transmitter.

With respect to (3) the combination of Burnett and Deb does not teach a transmission component that transmits a synchronization symbol that corresponds to the identified packet type, the transmitted synchronization symbol providing synchronization information and each packet type having a different synchronization symbol, and that transmits the symbols of the packet. The examiner disagrees with the appellant because Burnett discloses a switch for transmitting a state control word "synchronization symbol" that corresponds to the identified message type "packet type", the transmitted synchronization symbol provides synchronization information "state control word is used to indicate what type of message the receiver will be received. The receiver used this information to store the message in a control or data queue, for example, if the transmitter retrieves and transmits a control message from a control queue after transmitting a state control word, the receiver stores the control message into a receiver control queue after receiving the state control word and message". Each data or control message "packet type" has a different synchronization symbol "state control word for data or control message" and that transmits the symbols of the packet (See col. 2, lines 19-60 and col. 3, lines 18-35). Therefore, the state control word is used to data storage synchronization between the storage of receiver and transmitter.

With respect to (4) there is no suggestion or motivation to combine reference teachings. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Burnett discloses a method and system for transmitting a state control word that indicates the message type in front of a message to the receiver wherein each state control word has a different message type word (See col. 2, lines 19-55 and col. 3, lines 18-35) and receiver includes a device for identifying type of packet based on the information in the header (Col. 2, lines 55-60). Deb discloses a method for receiving a packet and identified the type of received packet before forwarding the packet (Col. 16, lines 24-58, col. 17, lines 22-37, Fig 8 and col. 21, line 30 to col. 22, line 19).

Since, a method for identifying a type of packet is well known and expected in the art and Burnett suggests a buffer register used to allow the receiver to detect a message type (Col. 2, lines 55-60). Therefore, it would have been obvious to one of ordinary skill in the art to apply a well-known method such as identifying a type of packet as disclosed by Deb into Burnett's system and method. The motivation would have been to reduce delay time when transmitting a packet from source to destination.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Steven H.D Nguyen/

Primary Examiner, Art Unit 2619

Conferees:

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